S U M M A R Y

REPORT
OF THE
PRINCE EDWARD ISLAND
ADVISORY COMMITTEE
ON
IMPAIRED DRIVING

Volume 1

December, 1988

February 17, 1989

The Hon. Wayne D. Cheverie, Q.C.
Minister of Justice and Attorney General
Province of Prince Edward Island
5th Floor, Shaw Building
Charlottetown, PEI

Dear Sir:

RE: Report of the Prince Edward Island
Advisory Committee on Impaired Driving

On behalf of the Prince Edward Island Advisory Committee on Impaired Driving, I am pleased to submit the committee's report. The report, in two volumes with two supporting documents, is the result of eighteen months work by the committee in examining the complex issue of impaired driving in Prince Edward Island.

The committee was impressed by the increasing concern in the province about impaired driving. This concern was expressed to the committee in various ways. The committee hopes that this concern can be further advanced with the implementation of the recommendations in this report. Future efforts will require a commitment and leadership on the part of government agencies in cooperation with many community groups concerned about impaired driving and its consequences.

I would like to commend committee members for their interest, participation in, and contribution to this work. This was often with disruption to their regular responsibilities and at some personal inconvenience.

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I view the work and activity of this committee as a significant contribution to the efforts in this province to deal effectively with impaired driving. Hopefully our efforts have gone a long way to satisfying the terms of reference provided to the committee.

On behalf of committee members, thank you for the opportunity to participate in this important matter.

Yours very truly,

Phil Arbing,
Chairman
PEI Advisory Committee on
Impaired Driving

Members

Sgt. Miles Foster
Mr. Ken Hicks
Dr. L.H. Killorn
Ms. Jill (Lightwood) Wright
Ms. Heather MacPherson
Mr. Foch McNally

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ACKNOWLEDGEMENTS

During the eighteen (18) months work carried out by the Prince Edward Island Advisory Committee on Impaired Driving, the interest shown, support given, and participation in the Committee by a great many individuals and organizations has made a significant contribution to this effort.

This includes members of the public from across the province who attended public meetings and discussions, wrote letters, submitted briefs, and/or met with the Committee. As well, the Committee sought the views of a number of government agencies, private and community groups in the province. The assistance and advice received was very helpful.

The Committee was particularly impressed by the participation of students and young people and the organizations they represented. As well, the views and contribution by victims added a special focus. The Committee very much appreciated these somewhat special efforts.

In carrying out the research on impaired driving incidents, the assistance and support of the administration and staff of all Municipal Police Departments as well as Headquarters and Detachments of RCMP "L" Division across the province was excellent. For this, the Committee is grateful. The Computer Services Division of the P.E.I. Department of Finance contributed in a significant way to the data compilation and analysis involved in the research.

The Committee was greatly assisted by a number of sources contacted and the resource material, documentation and guidance received from a variety of agencies across the country particularly Departments of Justice, Motor Vehicle and Highway Safety Branches, Addictions Agencies, among others.

At least three individuals deserve a special note of appreciation: Mrs. Edna Smith who, with much attention to detail, arranged and typed this report and many preceding discussion papers, drafts and other related work. Ms. Helen Durie who led the research effort in examining the issue of impaired driving based on incidents coming to the attention of the police. This has resulted in an excellent research report and data base that can serve various interests in the province well into the future.

Mr. Craig McDowall who served as coordinator of the Safe Driving Project in support of the Committee's work and who was responsible for information gathering including an extensive literature review, coordinating Committee efforts, developing draft documents and many other related activities.

The Committee is grateful to the Department of Justice and Attorney General for being able to reach an agreement with the Federal Department of Justice for a sizeable financial contribution from that Department's Impaired Driving Initiative to support the Safe Driving Project thus, in turn, the work of this Committee. More recently, the advice/assistance of the Federal Department of Health & Welfare Canada through its Community Action Program on Impaired Driving has been a valuable resource.

The efforts and cooperation of the media in Prince Edward Island have been a significant help to the Committee and hopefully to the public in general in continuing to keep the issue of impaired driving before the public.

As chairman of the Committee, a very special thank you is directed to the other six members of the Advisory Committee for their interest, dedication, commitment and contribution.

Finally, the opportunity extended by the province through the Minister of Justice and Attorney General to participate in this important undertaking was not only an opportunity but also a challenge for which the Committee is grateful.

Thank you.

EXECUTIVE SUMMARY

On April 14, 1987, the Honourable Wayne D. Cheverie, Q.C., Minister of Justice and Attorney General announced that the Department of Justice, in conjunction with other government and community organizations, would be leading a thorough examination of the issues directly related to and the consequences of drinking and driving behaviour in the Province of Prince Edward Island. The ensuing examination would be in the context of legislation, prevention, enforcement and intervention measures and programs.

A seven member Advisory Committee consisting of representatives of agencies directly involved in drinking and driving issues within the Province was formed to carry out this examination and to coordinate related activities in the context of a Safe Driving Project which started in July, 1987.

The Provincial Department of Justice was able to obtain financial assistance from the Federal Department of Justice, Ottawa, through its Impaired Driving Initiative, to coordinate the workings of the Committee and to provide coordinating staff and research support.

Impaired driving in Canada has long been considered problematic. With the Criminal Code amendments, as presented through Bill C-19, coming into effect in December, 1985, the issue of impaired driving became the focus of increased attention on the part of Federal, Provincial and Territorial Governments.

The Provincial Advisory Committee considered it imperative that the public be able to contribute to the information gathering process. Information on the issue of impaired driving was obtained through the preparation of a Prince Edward Island Services Inventory, a series of public consultations, a call for a presentation of briefs to the Advisory Committee, the creation of an audio visual resource inventory, a literature review of information and data on impaired driving and the establishment of an in-depth study of all impaired driving charges that were laid within the Province from 1983 to 1987. It was felt that the research project was necessary to provide the Committee with a profile of who the drinking driver is on Prince Edward Island. The findings of the research project are included in volume two of the report.

THE MAGNITUDE OF THE PROBLEM

It has been argued that impaired driving causes more harm to and extracts more costs from society than does any other single behaviour. Costs to the Canadian taxpayer through the deaths and injuries of its citizens and property damage resulting from alcohol related traffic accidents are conservatively estimated to run approximately 1.1 billion dollars annually.

Between 80 to 90% of all traffic crashes result from human error and conditions. The most common human condition is impairment due to alcohol and/or other drugs. The Traffic Injury Research Foundation estimates that between 45% to 51% of all drivers killed on Canadian roads were impaired at the time of their deaths. These national figures and trends are also reflected on Prince Edward Island.

The issue of impaired driving cannot be addressed without first looking at the sources and levels of alcohol consumption within the general population. There is an obvious interrelationship between levels of consumption, the social acceptability of alcohol use and the general use of a motorized vehicle.

It is extremely difficult to answer the question, "Who drinks and drives?" A large proportion of the data collected is from known sources, that is, information gained from police charge sheets and from the actual offenders themselves. It can only be estimated how many people engage in drinking and driving behaviour and go undetected. A 1986 Manitoba Night-time Survey estimated that one out of every five drivers on the road at night as having at least a moderate amount of alcohol in their system and that one out of every twenty drivers operating a motor vehicle at night is legally impaired.

The general characteristics of the impaired driver can be examined in various categories. These include: alcoholism, blood alcohol concentration levels, age, gender, origin of trip, repeat offenders, and time of day of incident. A basic profile of the impaired driver on Prince Edward Island was created from the data obtained in the research study of impaired driving charges from 1983 to 1987. It was found that the impaired driver is likely to be a male under 30, without a previous conviction for impaired driving. He will most likely come to the attention of the RCMP on road patrol because of abnormal driving behaviour. The incident will most likely occur during late night hours, on a rural highway during clear weather months. He will have a blood alcohol concentration of just

over 150 milligrams, and be charged with driving with over 80 milligrams of alcohol, and convicted in Court. As of 1987, his sentence will be a fine of at least $800 dollars and a jail term of at least three days in jail.

LEGISLATION

Historically, the establishment of Canadian impaired driving legislation began in 1921 and was followed by four distinct developmental, progressive stages of criminal law which served to outline specific areas of impaired driving behaviour.

The implementation of the Criminal Code amendments through Bill C-19 in December, 1985, has served as a focal point for present discussion on the issue of impaired driving. These Criminal Code amendments were the result of effective pressure placed on governments from concerned interest groups. The intent of these most recent legal amendments was to reinforce the fact that impaired driving is a serious criminal matter that can result in severe penalties.

The scope of the present legislation was expanded. It addressed the problem of location by indicating that drinking and driving offences can occur anywhere, it redefines the term motor vehicle to include all types of motorized transportation, and it redefines the term "care or control" by stating that an individual can be convicted of an impaired driving offence not only when driving but also if he or she is judged to have care or control of a motor vehicle.

Crucial to the legislative concerns about impaired driving, is an understanding as well of existing provincial rules and regulations.

Impaired driving behaviour is an intricate combination of motor vehicle use and alcohol consumption. Both are provincial responsibilities, therefore an understanding of existing provincial rules and regulations is essential. In this regard the Advisory Committee addressed several issues involving the Highway Traffic and Liquor Control Acts of Prince Edward Island.

In addition to the criminal sanctions imposed by the courts after an impaired driving offence, the individual is subject to decisions pursuant to provisions of the Highway Traffic Act. In this light, the Advisory Committee examined the licensing process and various programs offered through the Highway Safety Division. This included a review

of programs for new drivers. The concept of a twenty-four hour roadside suspension program involving drivers who have been drinking but not legally impaired was examined. Of direct relevance to such program initiatives is the issue of funding. The Committee examined the idea of the user fee concept in this regard.

National figures indicate that the youngest drivers (age 16 to 19) account for 23% of all fatalities and 18% of all injuries yet only comprise 15% of the total number of drivers on the road. Similarly, PEI 1985 traffic figures relay that this age group was involved in 20% of injury related motor vehicle accidents while comprising only 7.6% of all licensed drivers in the Province.

These figures suggest that a young driver's inexperience is significantly heightened when alcohol is introduced. It was with this perspective and background that the Liquor Control Act of PEI was analyzed by the Advisory Committee. The relative ease with which a young person can gain access to alcohol raises serious concerns about the effectiveness of the present Liquor Control Act.

INTERVENTION STRATEGIES

Prevention is a component part of all countermeasure and intervention efforts against impaired driving. Prevention directs itself towards a future orientation by implying an acquisition of knowledge that can be internalized and therefore utilized in the personal decision making process of everyday life. All intervention strategies should be viewed as component parts of an ongoing effort to change personal and social attitudes against impaired driving and are therefore preventive in nature.

Police enforcement as an intervention strategy has met with success in the past. Its continued success, however, depends upon how much the public is actually aware of what enforcement techniques are employed on a regular basis. As well, there is evidence to suggest that public awareness campaigns in the absence of concentrated enforcement policies have little, if any, effect on the reduction of alcohol related accidents. Therefore, there is a reciprocal relationship between successful enforcement campaigns and public awareness - one should not exist without the other. The Advisory Committee is of the opinion that continued police enforcement is absolutely necessary and that this enforcement must be complimented by the development of an effective public awareness campaign to inform the public of the personal, social and legal consequences that can result from participating in drinking and driving behaviour.

In that twenty-five to thirty percent of convicted impaired drivers are alcohol dependent, treatment services are essential because a driving while impaired conviction can serve as a "fishnet" mechanism thereby directing an individual to enter treatment. Local Prince Edward Island experiences indicate percentages of incidence of alcoholism increase with previous convictions. It is therefore without question that treatment programs be maintained as an integral part of the total intervention process. It is further suggested that alcohol and drug treatment programs play a major role in the elimination of repeat offenders involved in impaired driving.

Education prevention programs directing themselves particularly to the youth of the province may hold the ultimate key to success of any intervention strategy. To reduce drinking and driving is to change social attitudes, norms and values. Social change is never accepted with complacency. Change, however, is made easier if the youth of our community believe it is necessary. Therefore, educational programs outlining the dangers of alcohol use and ultimately alcohol use and driving must be presented to and involve our youth at the earliest opportunity. The educational system offers a ready-made medium for the presentation of this message.

It can be argued that the environment and physical layout of drinking establishments where alcoholic beverages are sold influence the consumption of alcohol. Therefore, proprietors and employees within these establishments play a key role in the amounts of alcohol their patrons consume and ultimately whether they use motor vehicles after leaving the premises.

Recent Canadian civil case law has indicated that servers and, in some cases, employers can be successfully sued for damages when found negligent, that is, when they knew or should have known a patron was dangerously intoxicated. The Advisory Committee had the issue of server intervention and training brought before it on many occasions. Opinion was strong that a substantial increase in the awareness of both proprietors and employees of drinking establishments and of the public in general of the liability of the former for damage caused to or by impaired persons should occur. It is the opinion of the Advisory Committee that a server intervention program must be part of a provincial countermeasures program which is being advocated by the Committee.

Issues related to the "Happy Hour" concept and the "Designated Driver Program" were also addressed by the Advisory Committee. The continued use of the "Happy Hour," viewed as the promotion of high volume alcohol use over a short period of time, is seen as

counter-productive to any overall provincial program promoting the dangers of impaired driving. Steps should be taken to eliminate this practice. The Designated Driver Program, though sometimes viewed as the promotion of alcohol use by some, is seen by the Advisory Committee as a potentially successful short-term solution to the general overuse of alcohol by patrons of licensed establishments who drive their vehicles upon leaving these premises. The promotion of a consistent province-wide Designated Driver Program is viewed as a positive measure.

VICTIMS

The Advisory Committee heard on several occasions from victims and victims' groups on the issues of impaired driving. Much was said regarding the present inadequacies of the criminal justice system and its treatment of victims, particularly the victims of impaired drivers.

Amendments in 1988 to the Criminal Code through Bill C-89, the Victims of Crime legislation, provides for some improvement in the areas of victimization. Of particular concern is financial compensation particularly in the area of long-term care for individuals who have been injured in impaired driving accidents. Under present Federal/Provincial cost-sharing agreements, victims of impaired driving are not compensable. The Advisory Committee views this position as limited in scope in failing to recognize the total potential emotional and financial costs incurred if an individual and/or an individual's family are victimized by the crime of impaired driving.

The present "Unsatisfied Judgement" process as operated by Judgement Recovery (PEI) Limited tends to be a slow process and at times falls short in covering the financial cost of caring for a chronic care patient injured through an impaired driving incident.

It is understood that the Province has been approached by the Insurance Bureau of Canada to have the provisions of the Highway Traffic Act dealing with the judgement recovery process amended. This will in turn allow for the "uninsured motorist" provision of the Standard Auto Policy to be implemented on PEI. The Committee views the uninsured motorist provision as being a partial solution to one of the many problems faced by victims in our society.

At the provincial level, the Victims of Crime Act is presently awaiting proclamation. This Act provides for a Victims Assistance Fund to be supplied by monies garnered from surcharges imposed on persons convicted of any Provincial Statute and Federal criminal legislation. In addition, the Act provides for the establishment of a victims services advisory committee to oversee services to victims in the Province of Prince Edward Island.

"Any individual can be a potential victim of an impaired driver" was the main message delivered by victims of impaired driving to the Advisory Committee. The Committee is of the opinion that this message should be utilized in any proposed preventive educational package within the province.

In summation, any future endeavors undertaken by the province in the areas of impaired driving countermeasures should include victim participation. Program development and evaluation which will be included in any long-term strategy against impaired driving will benefit greatly from victim representation and input.

RESEARCH AND EVALUATION

The need for a continued emphasis to be placed on evaluative research as part of a long-term strategy against impaired driving is absolutely necessary. Up-to-date information is essential if decision makers are to arrive at realistic conclusions regarding enforcement practices and the impact of existing and potential programs.

Impaired Driving on Prince Edward Island, the five-year study of impaired driving charges from 1983 to 1987 has created a data base that must be expanded to allow for updated information in the area of impaired driving behaviour on Prince Edward Island.

The collection of information must also come from sources other than police files and other known sources. Priority must be given to the utilization of potential resource areas that will answer the elusive question, "Why do people drink and drive?" The Province should therefore make itself available for any research opportunities in the area of highway safety and ultimately impaired driving. Additionally, participation in the night-time survey held in conjunction with Transport Canada in other parts of Canada should be encouraged.

THE NEED FOR A MULTIDIMENSIONAL APPROACH

The time and effort spent on exploring the intricacies of the drinking and driving issue have led the Committee to a conclusion that perhaps was known before the process began. Simply, the drinking and driving dilemma is multidimensional and extremely complex. Therefore, any attempt at solving the dilemma must also be multidimensional and fully integrated in its approach.

The completion of this report on impaired driving, in essence, is just the beginning. The activities surrounding the development of this report, the preparation of a services inventory, public consultations and the five-year study of impaired driving charges have served to highlight activities that are happening within the Province and have also pointed to areas that need adjustment or change. Thus, a Provincial Countermeasures Program is recommended.

The efforts of the Advisory Committee on Impaired Driving have served to keep the issue of impaired driving in the forefront of public awareness. The challenge now remains for future strategies to keep it there. The organized strategies to curtail impaired driving within the province of Prince Edward Island require complete commitment. The establishment of a Provincial Countermeasures Program will serve to highlight the seriousness of impaired driving while at the same time solidify the province's commitment towards the elimination of this problem. It is the hope of the Advisory Committee on Impaired Driving that its efforts are not wasted and that its recommendations be considered and implemented as soon as possible.

RECOMMENDATIONS

The Prince Edward Island Advisory Committee on Impaired Driving recommends that:

1. **The provincial government of Prince Edward Island make its views known to the federal government supporting the reduction of the legal blood alcohol level from .08% mg to .05% mg through subsequent Criminal Code amendments. (Page 38)**

2. **Section 242(4) of the Criminal Code be applied consistently by all enforcement agencies within the province of P.E.I. when dealing with those individuals driving while disqualified. (Page 46)**

3. **An examination of the review time period as outlined in Section 247 of the Highway Traffic Act take place with the intention of eliminating the two year time limit for impaired driving convictions. (Page 47)**

4. **The Department of Justice and Attorney General, Highway Safety Division and law enforcement agencies review and examine experiences elsewhere on the 24 hour roadside suspension program with a view to adapting the concept for its implementation in the province of P.E.I. (Page 49)**

5. **Government examine and review the cost structure of the licensing and licensing reinstatement process within the Highway Safety Division with a view of establishing a more comprehensive "user fee" system, particularly in regard to programs designed for impaired drivers. (Page 53)**

6. **Government examine the fine structure under the Liquor Control Act of P.E.I. with a view to substantially increasing fines particularly in areas pertaining to the illegal use and possession of alcohol. (Page 56)**

7. **Enforcement agencies continue to utilize the "stop-check" program on a regular basis within the province as a prevention, public awareness (including media attention) and detection technique, and to coordinate with other enforcement agencies in a province-wide program whenever possible. (Page 65)**

8. **The Minister of Justice and Attorney General approach his federal counterpart with the purpose of reviewing and strengthening the present legislative and enforcement procedures provided for in the Criminal Code as they relate to the detection and prosecution of the impaired driver. (Page 65)**

9. A public awareness program against impaired driving be a central part of any countermeasures program developed in the province which should include the following:

   a) An information package developed by the Highway Safety Division to be distributed to motorists at license and motor vehicle registration renewal times.

   b) A public address announcement which can be played at each ferry terminal prior to boarding or during the crossing warning motorists of dangers of impaired driving.

   c) The distribution of "point of sale" material (shopping bags, etc.) after each purchase at liquor control outlets across the province.

   d) Enforcement agencies utilize a media campaign in conjunction with the "Stop-Check" program.

   e) The Department of Justice and Attorney General of P.E.I. be responsible for developing an annual "media workshop on impaired driving" for individuals, organizations and media representatives involved in the dissemination of public information. (Page 68)

10. The provincial government create a permanent full-time position to serve as a liaison between the Highway Safety Division and Addiction Services on P.E.I. to coordinate the mandatory referrals resulting from the motor vehicle re-licensing process and to serve a liaison function with Justice agencies. (Page 71)

11. A liaison function should be established and/or supported by government to coordinate community-based youth programs and activities (e.g. S.A.D.D./Safe-Grad) across the province. (Page 77)

12. An "alcohol-drug" component become part of the proposed family life curriculum within the educational system. (Page 77)

13. The government of Prince Edward Island, through the Liquor Control Commission, take a lead role in the sponsorship and coordination of educational programs pertaining to the responsible use of alcohol. (Page 79)

14. The P.E.I. Liquor Control Act be amended to include the requirement of server intervention training by all individuals prior to the receipt of a "waiter's license," and that those serving alcohol have a server training program as a minimum requirement for employment in any licensed establishment with this being a condition of the issuance of the standard liquor license. (Page 83)

15. The provincial government support the tourism and the food and restaurant industry in the development of a comprehensive, standard provincial server intervention program. (Page 83)

16. The enforcement agencies in P.E.I. share with the Liquor Control Commission information that comes to their attention arising from complaints or incidents in or around licensed premises involving the serving of alcohol. (Page 83)

17. The P.E.I. Liquor Control Commission review the existing legislation related to "discount sales and pricing" with a view to eliminating "Happy Hours" in licensed establishments in Prince Edward Island. (Page 84)

18. A province-wide "designated driver" program be implemented as part of a provincial countermeasures strategy against impaired driving. (Page 85)

19. The provincial government continue to impress at the federal level, the limitations of the present cost-sharing agreement on criminal injuries compensation as it relates to victims of impaired driving. (Page 88)

20. The provincial government move as expediently as possible in amending the Highway Traffic Act as it relates to "unsatisfied judgement" to provide for the application of "uninsured motorist" coverage in the province. (Page 89)

21. The concept of victimization be included in all information regarding impaired driving and to involve and utilize, where appropriate, the experience of victims in programs where drinking and driving is an issue. (Page 90)

22. The provincial government, through the Department of Justice and Attorney General, take the responsibility for the coordination of a centralized, continuous data collection process regarding all aspects of impaired driving behaviour. Specifically, the following must occur:

a) The present data base on impaired driving statistics be continued and expanded.

b) A province-wide integrated justice information system be expanded to include a crime reporting system so that impaired driving statistics can be made immediately available to those involved in any countermeasures strategy.

c) The organization of a night-time driver survey begin as soon as possible. (Page 94)

23. An Advisory Committee be established by the Minister of Justice and Attorney General to coordinate and monitor existing efforts and to review and implement the recommendations of this report with the purpose of establishing a province-wide countermeasures program. (Page 99)

24. a) The Prince Edward Island Advisory Committee on Impaired Driving Final Report be released as a public document as soon as possible.

b) A provincial symposium on impaired driving be organized as soon as possible to discuss the issues of impaired driving and the ensuing possibilities of establishing a provincial countermeasures program in 1989. (Page 101)

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THE PROCESS

The Hon. Wayne D. Cheverie, Q.C., Minister of Justice and Attorney General, announced on April 14, 1987 that the Department of Justice of PEI, in conjunction with other government and community organizations, would be leading a thorough examination of the issues directly related to, and the consequences of drinking and driving behavior in the Province of Prince Edward Island. This examination would be in the context of legislation, prevention, enforcement and intervention measures and problems.

1.0 ADVISORY COMMITTEE ON IMPAIRED DRIVING

At the direction of the Minister of Justice and Attorney General, a seven member Advisory Committee was formed of representatives of agencies directly involved in drinking and driving issues within the Province (Appendix 1) to carry out the terms of reference of this endeavour. The committee began meeting on June 19, 1987 and met at least on a monthly basis. The Committee was provided secretarial and related support services through the Department of Justice and Attorney General.

1.1 TERMS OF REFERENCE

1. **To co-ordinate, where possible, the efforts of existing agencies and organizations in dealing with/responding to the problem of drinking and driving in Prince Edward Island.**

2. **To consult with and, where appropriate, involve community and other groups (e.g. MADD, SADD, etc.) through workshops, written briefs, public meetings and/or other activities.**

3. **To monitor and evaluate the effects of recent amendments to the Provincial Highway Traffic Act (e.g. assessment/treatment through Addiction Services), Criminal Code of Canada (e.g. increased penalties for drinking and driving), etc.**

4. **To examine existing programs in the province related to drinking and driving and compile an inventory of such programs including goals, objectives, resource requirements and implications including assessment.**

5. **To research and develop a demographic profile and statistical analysis of the drinking driver in Prince Edward Island, bringing attention to significant trends/variables where possible over the past five to seven years.**

6. **To oversee and encourage the development of public education events and resources for use by interested groups (e.g. workshops, video, etc.).**

7. **To advise government through the Minister of Justice and Attorney General with appropriate recommendations from time to time.**

8. **To provide the province, through the Minister of Justice and Attorney General, with an interim report and a final report.**

9. **To review and approve, as appropriate, proposals from this province for consideration by federal drinking and driving initiatives.**

10. **To develop a strategic plan including recommendations for continuing a coordinated approach in the future to deal with drinking and driving in the province.**

2.0 THE SAFE DRIVING PROJECT

To coordinate the workings of the committee and to provide staff and resource support, $65,400 was received from the federal Department of Justice through its Impaired Driving Fund. The Safe Driving Project employed a coordinator, a researcher and two research assistants at varying times from its inception in July, 1987.

The staff of the Safe Driving Project worked in conjunction with the Justice Resource Service and in particular, the Community Crime Prevention Program funded through the Solicitor General, Canada, with its mandate being youth, impaired driving, and family violence.

3.0 THE PROCESS CONSIDERED

Alcohol involvement in fatal traffic accidents within the province of Prince Edward Island over a five-year period prior to 1986 presented itself in dramatic percentages. In 1981, 67 percent or 12 of 18 fatal accidents involved alcohol. This figure "dropped" to fifty-five percent or 16 of 29 fatal accidents in 1983 but increased to 65 percent in 1985, where the overall number of fatal accidents increased to 34. 1986 saw the Island register 20 fatal accidents of which 12 (60 percent) were alcohol related.

To address the issue of impaired driving in the province and in conjunction with the efforts of the Federal Department of Justice to determine the effectiveness of recent Criminal Code amendments regarding impaired driving a meeting called by the provincial Department of Justice was held on September 8, 1986.

The meeting included representatives from the provincial justice system, law enforcement agencies, addiction services, health and social services, highway safety and private interest groups such as Mothers Against Drunk Drivers, Students Against Driving Drunk and the P.E.I. Safety Council.

The general consensus from this initial meeting was the lack of information that was readily available on the impaired driving situation on P.E.I. As a result several questions were raised: What is the nature and extent of the problem of impaired driving on P.E.I.? Who is the impaired driver? And, what is being done to alleviate the problem?

This meeting therefore served as the catalyst for the establishment of the provincial advisory committee, the Safe Driving Project and the terms of reference outlined in section 1.1.

Drinking and driving, a most difficult subject area open to many views and perceptions, forced the committee to maintain a narrow focus and deal with "impaired" driving as the issue at hand.

It was felt that though drinking and driving is problematic, it is nevertheless legal to a certain point. Impairment via alcohol and/or drugs, on the other hand, is an illegal practice as outlined in the Criminal Code and therefore must be the issue addressed at this time.

To this end the Advisory Committee and the coordinator of the Safe Driving Project set out the following tasks in an attempt to address the issue of impaired driving on PEI. The information obtained by the completion of these tasks as well as an overall basic literature review on the topic formed the basis of the final report and ultimately the series of recommendations arrived at by the committee.

Volume

2

S U M M A R Y

REPORT OF THE PRINCE EDWARD ISLAND ADVISORY COMMITTEE ON IMPAIRED DRIVING

Volume II

A Research Study of Impaired Driving Charges in Prince Edward Island During the Five Year Period 1983 - 1987

by

Helen Durie

December, 1988.

Funding assistance provided by the federal Department of Justice and the Department of Justice, Prince Edward Island.

IMPAIRED DRIVING ON PRINCE EDWARD ISLAND, 1983 - 1987

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ACKNOWLEDGEMENTS

While full responsibility for design and analysis lies with the Research Coordinator, assistance and advice from others has been welcomed along the way. Thanks are due first to Craig McDowall, the Coordinator of the Safe Driving Project, who took care of many of the administrative needs of the study and assisted with data collection but, most importantly, offered unhesitating support and encouragement at all times. Most of the data was collected by Sandra Lore and Linda Burke, who also contributed invaluable suggestions during the pilot phase. They competently and in good spirit carried out a task that was at the same time tedious and filled with new challenges, ranging from winter blizzards on the road to Alberton to having to vacate their temporary office when the breathaliser was needed, and much in between.

The study could not have been conducted without the cooperation of all municipal and RCMP police chiefs. Appreciation is due for the willingness with which assistance was given, and especially to police staff who had the additional task of retrieving files and making space available, and interpreting the complexities of police files and the law when needed. Thanks also to Irene MacDonald at RCMP's 'L' Division, who provided the lists of files that served as the key to the study. Special appreciation is expressed to Myrna Reeves and records staff at the Highway Safety Division, who maintain an extraordinarily efficient manual records system (soon to be automated), and relate to each other and an often demanding driving public with unshakeable grace. Foch McNally, Safety Coordinator at Highway Safety, was able to provide road driving statistics whenever I called.

Marie Furness of Computer Services answered my varied queries during design and testing, and coordinated the entry of data into the provincial government computer. Thanks also to Data Entry staff who keyed in data from over 5,000 forms. Susan Doiron was always available with competent and friendly Client Support, and alleviated my fears when it occasionally seemed that the data base was lost. Finally, a warm thanks to Helen Clow in the Department of Health and Social Services, who freely offered friendly assistance whenever I called upon her expertise as an SPSS user.

Helen Durie
Research Coordinator

August 1988

IMPAIRED DRIVING ON PRINCE EDWARD ISLAND, 1983 - 1987

HIGHLIGHTS

* 5,335 drivers were charged with impaired driving in P.E.I. during 1983 - 1987.

* Annual charges fell by 27% from 1983 to 1987, although P.E.I. continues to have the fifth highest rate of impaired driving charges across Canada.

* 94% of charged drivers over the five years were males. The proportion of females increased from 5% to 7% over the five years.

* One in three charged drivers was under 25 years, and one-quarter were aged 20-24. The 16-19 year age group was the only age group to decrease in proportion relative to other age groups over the five years.

* One in five drivers was charged in at least two separate incidents during the five years. One in twelve drivers was driving while prohibited as a result of a previous impaired driving conviction.

* One in seven drivers was charged following an accident. Accidents resulted in 8 deaths and 200 injured persons over the five years. Female drivers were slightly more likely to be charged as a result of an accident than male drivers, who most frequently came to police attention as a result of erratic driving behaviour.

* The highest blood alcohol concentration was 380 mg., and the average reading was 162 mg. Older drivers, and drivers involved in accidents, tended to have higher BAC readings.

* One in five impaired driving charges was laid between midnight and 1.30 a.m. The monthly level of charges increased during the summer months, with more charges against both P.E.I. and out of province drivers.

* P.E.I. drivers are much more likely to refuse to provide a breath sample than drivers in most provinces, although all Atlantic provinces are higher than elsewhere in Canada.

* The typical sentence for an impaired driving conviction has increased from a $250 fine in 1983 to an $800 fine and 3 days in jail in 1987. The sentence is usually more severe for conviction on 'refusal' than for 'over 80 mg.'

IMPAIRED DRIVING ON PRINCE EDWARD ISLAND, 1983 - 1987

EXECUTIVE SUMMARY

This report provides a description of police-detected impaired driving on Prince Edward Island between 1983 and 1987. The study was conducted for the P.E.I. Advisory Committee on Impaired Driving, and forms part of the activities of the P.E.I. Safe Driving Project, a provincially-sponsored project with funding assistance from the federal Department of Justice. One of the Terms of Reference of the Advisory Committee was 'to research and develop a demographic profile and statistical analysis of the drinking driver in Prince Edward Island, bringing attention to significant trends/variables where possible over the past five to seven years'.

The research reported on here is based on all incidents in which police laid charges for an impaired driving offence between 1 January 1983 and 31 December 1987. Impaired driving charges include 'driving while impaired', 'driving with over 80 mg.' and 'refusal to provide a breath sample' (or blood sample). Police files at all police detachments and municipal forces across the Island served as the primary source of information, with the Highway Safety Division at the Department of Transportation and Public Works providing supplementary information.

In addition to describing the nature and extent of impaired driving incidents, the drivers involved, and the court outcome of charges over the five year period, the report also provides some comparisons with national trends, and with the findings of a study of impaired driving charges in P.E.I. in 1971-72. A particular focus of analysis in the present study was whether 1985 Criminal Code amendments to impaired driving offences and penalties have had an impact on the incidence of impaired driving or on court penalties.

During the five years, 5,335 drivers were charged with impaired driving. The number of persons charged annually increased by 6% from 1983 to 1984, but then decreased by 10%, 19% and 7% each year thereafter, for an overall decrease of 27% by 1987 relative to 1983. This compares with Canada-wide annual decreases in the number of persons charged with impaired driving every year from 1983 to 1986, and an overall Canada-wide decrease of 12.6% from 1982 to 1986.

The largest annual decrease in P.E.I. was from 1985 to 1986, suggesting that the amended laws had an immediate impact on impaired driving. The decreasing trend, however, was already underway before the Criminal Code amendments came into effect. Information on whether police charging practices changed during the period of the study was not consistently available, and any possible effects of police practices on charge levels are not considered. However, it is most likely that the trend towards fewer charges is due in large measure to the deterrent effect of higher fines being ordered in P.E.I. courts beginning even before 1985, and then increasing considerably in severity in 1985, together with a gradual change in social attitudes towards drinking and driving. A broad education campaign which accompanied the introduction of the proposed changes to the laws undoubtedly contributed to the decreasing incidence of impaired driving. Despite the substantial decrease in persons charged over the five years, however, P.E.I. had the fifth highest rate of impaired driving across Canada in 1986.

Consistent with studies of impaired driving elsewhere in Canada, over 90% of charged drivers were male, although the proportion of females increased from 5% to 7% over the five year period. Just over half of all P.E.I. licensed drivers in 1987 were male. Males typically assume the driver role when they are with a female, and are therefore much more frequent drivers than females. This probably

accounts for a substantial part of the difference in the number of charges between female and male drivers.

One in three drivers charged with impaired driving was under 25, and all age groups under 30 were over-represented among charged drivers compared to their level in the licensed driving population. Charged drivers in the 20-24 year age group (25%) were almost double their proportion among licensed drivers (13%), while drivers in their 30's were charged in the same proportion as their share among licensed drivers, and older charged drivers were under-represented. Females were more likely to be over 30 than males. The average age of all charged drivers was 32, with ages ranging from 15 to 84 years. Impaired drivers in this study were slightly younger overall than those charged with impaired driving in 1971-72. Whether younger drivers actually drink and drive more frequently, or whether they incur more charges because they are on the road more frequently, or their age, vehicle or more aggressive driving behaviour makes them more visible to police, are factors to be considered. Young male drivers in particular are probably more likely to come to police attention. It is notable that 16 to 19 years olds were the only group to show a decrease over the five years, down from 11% of charged drivers in 1983 to 7% in 1987.

One in five drivers was charged more than once during the five years, and 5% were charged three times or more. (Data limitations suggest that the proportion of repeat charges is likely to have been a little higher.) Studies elsewhere in Canada have found that about 15% (range 10-38%) of charged drivers are repeat offenders. Eight percent of drivers were under suspension from a previous impaired driving conviction when they were charged.

In almost 70% of incidents, the driver came to the attention of police through routine road patrol enforcement. In 40% of incidents, the police report indicated that the driver was stopped because of apparent impairment, and

another 27% of drivers were charged after being stopped for a driving or vehicle infraction. Random road checks accounted for 3 percent of charges.

One in seven impaired driving charges resulted from an accident, a proportion very similar to that reported for 1971-72. There were eight deaths and 200 injuries, with the charged driver sustaining injury in 100 incidents. Relative to male drivers, females were more a little more likely to incur an impaired driving charge as a result of an accident, although all deaths occurred in incidents involving a male driver, and females drivers were not disproportionately involved in incidents causing injuries. Almost half of charged drivers who were injured were under 25. These accident data do not necessarily cover all accidents during the study period in which alcohol was a possible factor, as an impaired driving charge may not be laid in an accident where a more serious criminal charge is laid.

The average blood alcohol concentration (BAC) level was 164 mg., and the highest was 380 mg., with one in five over 200 mg. Females tended to have lower BAC levels than males, and older drivers tended to have higher levels than younger drivers. BAC levels here tended to be slightly lower than those found in other Canadian studies. Drivers involved in incidents where there was an injury (and where a BAC reading was taken) had higher BAC levels, with 70% over 150 mg. compared to 50% for drivers where no injury was involved.

Two out of three impaired driving incidents occurred between 9 p.m. and 3 a.m., with close to 40% occurring between midnight and 3 a.m. Incidents occurred more frequently (10%-12%) during the summer months (June to August), although similar levels occurred in May and October, with the lowest levels (5%) recorded in January and February. The proportion of out-of-province drivers increased substantially during the summer months, and accounted for some of the increase, but the absolute number

of P.E.I. licensed drivers charged also increased during these months.

Just under one-quarter of all impaired driving incidents were handled by the RCMP Charlottetown detachment, with the Charlottetown and Summerside municipal police forces and the RCMP Montague detachment each dealing with 10% of incidents. All RCMP detachments and municipal police forces charged fewer drivers in 1987 than in 1983. One third of impaired driving incidents occurred in urban areas (Charlottetown, Parkdale, Sherwood, Summerside and St. Eleanors), and urban incidents had a much higher frequency during hours after midnight than rural incidents. Almost two of three drivers charged by the Summerside municipal police lived outside Summerside, while well over half of drivers charged by the Charlottetown municipal police force lived outside Charlottetown.

More than two thirds of drivers were charged with 'over 80 mg.', and one-quarter were charged with 'refusal'. The relative proportion of 'over 80 mg.' charges among all impaired driving charges increased slightly over the five years, while 'refusal' charges decreased from 32% to 24%. Even with this decrease, the proportion of 'refusal' charges remains substantially higher than the Canada-wide level - 7% of impaired charges in 1986. It is of interest to note that all of the Atlantic provinces have a much higher proportion of 'refusals' than the rest of Canada. In a small number of incidents, charges were also laid for non-impaired offences, including criminal negligence causing death, dangerous driving, other non-traffic Criminal Code offences, and various provincial Highway Traffic Act offences.

Over 90% of charged drivers were convicted, and for those who were charged with two impaired offences - usually 'over 80 mg.' and 'driving while impaired', the second impaired charge was typically withdrawn upon conviction on the first charge.

Sentencing practices have changed dramatically over the five years. In 1983, close to 100% of impaired driving convictions resulted in a fine, most often in the amount of $250, and this practice remained essentially the same in 1984, although the most frequent fine increased to $400. There was a major change in 1985, when judges imposed a one day jail term in addition to a fine in one in eight convictions, and the typical fine increased to $550. By 1986, over two thirds of convicted drivers received a jail term in addition to a fine - usually 1 day in jail and an $800 fine, and one-quarter received a jail term alone, of typically one day. The use of a combined fine/jail term sentence decreased slightly in 1987, and jail terms alone increased to almost one-third of sentences, with the typical jail term length increasing to three days. Other conditions were imposed in fewer than 4% of convictions, and ranged from alcohol treatment to Community Service Orders and restitution (the latter two predominantly ordered in Youth Court).

The sentence for 'refusal' tends to be more severe than for 'over 80 mg.', indicating the court's particular condemnation of refusing to provide a breath sample. 'Refusal' convictions were more likely to receive a jail term, and a larger proportion of the higher fines and longer jail terms than convictions for 'over 80 mg.'.

The courts imposed a driving prohibition of more than six months on fewer than 5% of drivers. (All persons convicted of impaired driving are automatically suspended for six months under the provincial Highway Traffic Act for a first offence, and longer for subsequent convictions in a three-year period.) The majority of prohibition orders were for a period of up to 12 months, although one in ten were over 30 months or more.

The decrease in police detected impaired driving is of such substantial size that it can be assumed with almost certainty that the actual incidence of impaired driving is

on the decrease. It remains the largest single criminalized activity coming to police attention, and is still clearly a serious social problem. However, it appears that education and federal legislative initiatives, together with education programs on a national and local level, are having an effect.

The high level of impaired driving charges among young drivers is of particular concern, especially given their higher rate of involvement in accidents, and the accompanying risk of injury. However, the small but nevertheless noticeable decrease in impaired driving charges among 16 to 19 year olds is a welcome finding. It suggests that prevention and education programs targeted at young drivers, including the work of young people themselves (particularly through Students Against Driving Drunk), are leading to a change of attitudes and behaviour that will reduce the level of impaired driving, and its social costs, even further in the coming years.

I. PURPOSE OF REPORT

This study examines the extent and nature of police-detected impaired driving on Prince Edward Island during the five year period 1 January 1983 to 31 December 1987, based on charges laid by police.

The study was conducted at the direction of the P.E.I. Advisory Committee on Impaired Driving, as one of the activities of the P.E.I. Safe Driving Project, a provincially-sponsored project with funding assistance from the federal Department of Justice. The Advisory Committee was set up to develop a coordinated intervention approach to drinking and driving. One of the Terms of Reference of the Project's Advisory Committee was 'to research and develop a demographic profile and statistical analysis of the drinking driver in Prince Edward Island, bringing attention to significant trends/variables where possible over the past five to seven years'.

This report provides a description of incidents in which impaired driving charges were laid, and the court outcome of these charges, and describes annual changes in charges laid and court penalties, in order to assess the impact of Criminal Code amendments to impaired driving offences and penalties, which came into effect on 4 December 1985. Where appropriate, comparisons are also made with national trends, and with the findings of a 1971-72 study of impaired driving on Prince Edward Island.

II. METHODOLOGY

The study surveyed incidents in which a Criminal Code charge was laid for impaired driving during the five-year study period.[1] Prior to December 1985, impaired driving

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1 The RCMP provided a list from their centralized data base of incidents in which an impaired driving charge was laid, for each RCMP detachment. For approximately 205 listed

offences included 'driving while impaired', 'driving with more than 80 mgs. of alcohol in the blood', and 'failing or refusing to provide a breath sample'. The offences were reorganized but remained essentially the same following Criminal Code amendments in December 1985 (the major changes being an increase from $50 to $300 as the minimum fine for a first offence, and higher maximum penalties). Appendix A describes the impaired driving Criminal Code offences and penalties before and after the amendments.

i) Source of Information

The RCMP are responsible for law enforcement in all areas of P.E.I., except the four municipalities of Charlottetown, Kensington, Summerside and St. Eleanors, which each have a municipal police force. During the period of the study, the RCMP maintained eight year-round detachments, as well as a detachment at Cavendish during the summer months.

Police files at all RCMP detachments across the Island, and at the four municipal police forces, served as the primary source of information. Each police file corresponded to an incident, and information was collected on the incident, the charge(s) laid, the driver charged, and the court outcome of the charge(s). Information was collected on every charge (up to 3) arising out of the incident, whether or not the additional charges were impairment-related.

Where information relating to the court outcome of the charge(s) was not available on police files, a search was made at the Highway Safety Division of the Department of Transportation and Public Works, which maintains records on all persons convicted of a Criminal Code impaired driving offence. In some cases, the Highway Safety Division was

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incidents, there was no police file available. These included all 1983 files - reported to include 129 incidents - for one RCMP detachment.

also the source for Driver's Licence numbers. These were used to link separate incidents, in order to determine the number of persons who were charged in more than one incident during the study period.

ii) Data Collection

A pilot phase was conducted during December 1987, during which the data collection form was tested on files at the Charlottetown, Kensington and St. Eleanors municipal police forces, and the Charlottetown and Parkdale and Sherwood RCMP detachments, as well as at the Highway Safety Division. Pilot testing was for purposes of ensuring that the form and coding procedures were suited to available information, as well as developing coding consistency among the four data collectors. The pilot phase resulted in some changes to the items included and the format of the Data Collection Form.

Full data collection was carried out during January to March 1988, with researchers reviewing relevant files at each RCMP detachment and municipal force. The majority of data collection was conducted by two persons, with some assistance from the other two persons who had been involved in the pilot testing.

iii) Information Included in the Study

The information that was collected can be divided into four categories, relating to the Incident, the Driver, the Charge, and the Court Outcome. A total of 36 items were included, although in most incidents, only one criminal charge was laid, and only 26 items were relevant (the remaining 10 relating to the charge and court outcome for additional charges). Appendix B describes the items of information that were obtained.

iv) Data Analysis

Data were coded numerically, for entry into the provincial government's computer. Data analysis was conducted with the Statistical Package for Social Sciences (SPSS).